

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
OXFORD DIVISION**

**JOE TUBWELL**

**PLAINTIFF**

**v.**

**CIVIL ACTION NO. 3:17-cv-15-DMB-RP**

**SPECIALIZED LOAN SERVICING, LLC  
(SLS) and MORGAN STANLEY MORTGAGE  
CAPITAL HOLDINGS LLC**

**DEFENDANTS**

**ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL DISCOVERY RESPONSES**

Plaintiff Joe Tubwell seeks an order compelling Defendants Specialized Loan Servicing, LLC (“SLS”) and Morgan Stanley Mortgage Capital Holdings LLC (“Morgan Stanley”) (collectively “Defendants”) to respond to Plaintiff’s discovery requests. Docket 111. Plaintiff filed his Notice of Service on April 27, 2018 (Docket 101), and states that he served Defendants via e-mail and United States Mail with his First Set of Interrogatories, Requests for Production of Documents, and Requests for Admission that same day. *Id.*; Docket 111-3.

Defendants counter that Plaintiff’s “discovery requests were served after the close of discovery” and contend that the motion to compel is “improper and delinquent.” Docket 121. Counsel for Defendants maintains that he received Plaintiff’s discovery requests on June 12, 2018, by mail postmarked June 1, 2018. Docket 121. In an email dated June 12, 2018, counsel for Defendants informed Plaintiff that the discovery requests were received that day and postmarked on June 1, 2018. Docket 120-4. Counsel’s email correspondence states that “discovery in this matter closed on June 4, 2018” and “we will not be serving responses on behalf of SLS an [sic] Morgan Stanley to these untimely discovery requests.” *Id.*

It is not necessary for the Court to determine when the subject discovery requests were served, as Plaintiff did not file his motion to compel responses until June 22, 2018, some 18 days

after the discovery deadline in this case. Under Local Uniform Civil Rule 7(b)(2)(C), “A party must file a discovery motion sufficiently in advance of the discovery deadline to allow response to the motion, ruling by the court and time to effectuate the court’s order before the discovery deadline.” Clearly, a discovery motion filed after the discovery deadline is untimely.

The stay of discovery in this case was lifted on April 13, 2017. Docket 29. The Court entered its case management order setting a discovery schedule on April 27, 2017. Docket 31. On January 11, 2018 the court extended the discovery deadline to June 4, 2018. Docket 75. Plaintiff has had ample time in this case to conduct discovery as to these defendants and raise any discovery issues within the time permitted. Plaintiff’s motion to compel is **DENIED** as untimely.

**SO ORDERED**, this the 20th day of July, 2018.

/s/ Roy Percy  
UNITED STATES MAGISTRATE JUDGE